

MSU 4.1-541
Appl. No. 09/761,143
Amdt. Dated: December 20, 2007
Reply to Final Office Action mailed November 6, 2007

REMARKS

In the final reference to the Office Action mailed November 6, 2007, it is premature, since the Terminal Disclaimers have not been considered. This Amendment assumes that they were effective to overcome the rejections.

Claims 1, 3-6, 15-18, 27-30 and 34 are pending. Claims 2, 7-14, 19-26 and 31-33 were previously cancelled. No claims are allowed.

The claims were rejected under 35 USC 112, second paragraph, because of the way "lyophilized" was presented as being new matter. Claims 1 and 27 have been amended to reposition "lyophilized" as disclosed on page 13 of the application and to call for anthocyanins. Claims 15 and 34 have been amended to conform to the change in Claims 1 and 27. The nature of the final rejection is not changed by this Amendment which avoids the new matter rejection and entry is requested.

The anthocyanins are not related chemically to the compounds of Roy (U.S. Patent No. 4,712,310). The reason for the food grade acid in Applicants' invention is to retard decomposition of the anthocyanin to

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cyanidin. This problem and the solution is not suggested in any way by the references alone or in combination. One skilled in the art would not think of removing the malic acid to replace it with a food grade acid. There is no suggestion of this composition in the prior art of record for the claimed method of use.

It is believed that Claims 1, 3-6, 15-18, 27-30 and 34 are in condition for allowance or Appeal. Entry of this Amendment to correct the formal rejections is requested.

Respectfully



Ian C. McLeod
Registration No. 20,931

IAN C. McLEOD, P.C.
2190 Commons Parkway
Okemos, Michigan 48864

Telephone: (517) 347-4100
Facsimile: (517) 347-4103
Email: ianmcld@comcast.net